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Rockwell Automation, Inc./BF
Attention: Susan M. Donahue,
E-7F19
1201 South Second Street
Milwaukee, WI 53204

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OFFICE OF PETITIONS

In re Application of
Brian A. Batke et al.
Application No. 09/964,916
Filed: September 27, 2001
Attorney Docket No. 110003.97605

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 2, 2007. A Notice of Abandonment was mailed on November 19, 2007.

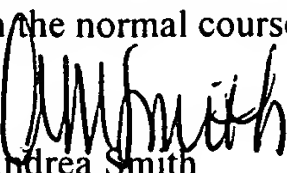
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of \$1500, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1020 extension of time fee submitted with the petition on August 8, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2142 for appropriate action by the Examiner in the normal course of business on the reply received August 8, 2007.


Andrea Smith
Petitions Examiner
Office of Petitions

cc: Keith Baxter
Boyle Fredrickson, SC
840 N. Plankinton Avenue
Milwaukee, WI 53203